

## **Remarks**

Newly added claims 105-109 are presented to the Examiner in this Amendment. Claims 1-104 have been canceled.

Claims 105-109 are based on claims 1-97 as previously filed. This Amendment does not include new matter.

## **Restriction Requirement**

In the Restriction Requirement, the Examiner asserts that there are > 66,000 separate inventions that are being claimed. The Applicants vehemently disagree, and believe that the Examiner fails to understand the nature of the invention.

The claims have been revised for two reasons.

First, it was impossible to claim any embodiment of the invention in view of the restriction requirement that was made. In item 3 of the restriction requirement, the Examiner requires that the claims be limited to a single polymorphism. However, the claims require assessment of at least two polymorphisms. The Applicants traverse the requirement, and cannot make a provisional election, because no embodiment of the invention is encompassed by the restriction requirement imposed by the Examiner.

Second, following telephone discussions with the Examiner, the Applicants believe that the claims presented in this Amendment correspond to an embodiment of their invention that can be searched by the Examiner without undue hardship. The currently claimed embodiment, as with all previously claimed embodiment requires assessment of at least two polymorphisms. In the currently claimed embodiment, the polymorphisms are in a superoxide dismutase gene and a catalase gene of a human. Dependent claim 106 lists eleven other genes for which occurrence of polymorphisms can, optionally be assessed.

It is the Applicants' understanding that if the Examiner considers the combination of superoxide dismutase and catalase polymorphisms to be patentable in the context of what is claimed, then all of claims 105-109 will be considered allowable - that is no further searching by the Examiner is required. To the extent the Examiner may wish to impose an election of

species requirement for the "third gene" of claim 106, the Applicants provisionally elect glutathione peroxidase.

### Summary

For the reasons set forth above, the Applicants respectfully contend that new claims 105-109 include only allowable subject matter. The Examiner is requested to consider and allow claim 105-109.

Respectfully submitted,

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1 March 2005  
(Date)

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